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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,	)	No. CR 12 - 00527 MAG
	)	
Plaintiff,	)	STIPULATION AND
	)	<del>PROPOSED</del> ORDER
v.	)	
	)	
KATHLEEN BORKENHAGEN,	)	
	)	
Defendants.	)	

WHEREAS, the government has filed an information in connection with the above-entitled matter;

WHEREAS, the parties are currently scheduled for a status hearing before this Court on Thursday, August 23, 2012, as to further proceedings in connection with this matter;

WHEREAS, counsel of record for defendant Kathleen Borkenhagen is currently on extended medical leave and not due to return to the office until Monday, August 27, 2012, such that the need for a continuance based on continuity of counsel pertains,

WHEREAS, counsel for the parties jointly agree and stipulate that a continuance of this matter is appropriate given the unavailability of one of the defense counsel, and where the next available date where all counsel are available is Monday, September 17, 2012, such that there is a

1 need for a continuance to such date based on continuity of counsel, pursuant to 18 U.S.C. §  
2 3161(h)(7)(B)(iv);

3 THEREFORE, the parties mutually and jointly stipulate that the matter should be  
4 continued, the need for continuity of counsel, and the parties jointly request that the Court  
5 continue the matter until **Monday, September 17, 2012, at 9:30 a.m.**

6 The parties agree that continuing the case until September 17, 2012, is necessary, given  
7 the need to maintain continuity of counsel. The parties also agree that failing to grant a  
8 continuance would deny counsel for the defense the reasonable time necessary for effective  
9 preparation and continuity of counsel, taking into account the exercise of due diligence. See 18  
10 U.S.C. § 3161(h)(7)(B)(iv). Finally, the parties agree that the ends of justice served by  
11 excluding time from August 23, 2012, until September 17, 2012, outweigh the best interest of  
12 the public and the defendant in a speedy trial. Id. § 3161(h)(7)(A).

13 **STIPULATED:**

14  
15 DATED: August 21, 2012

/s/  
\_\_\_\_\_  
MANUEL ARAUJO  
Attorney for KATHLEEN BORKENHAGEN

16  
17  
18  
19 DATED: August 21, 2012

/s/  
\_\_\_\_\_  
TIMOTHY J. LUCEY  
Assistant United States Attorney

20  
21  
22 **ORDER**

23 For good cause shown, the Court continues the matter until **Monday, September 17,**  
24 **2012, at 9:30 a.m.**

25 The Court enters this order excluding time from August 23, 2012, up to and including  
26 September 17, 2012. Specifically, the parties agree, and the Court finds and holds that such that  
27 time should be excluded until September 17, 2012, and furthermore that failing to grant a  
28 continuance until September 17, 2012, would unreasonably deny the defendant continuity of

1 counsel, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

2 Finally, the parties agree, and the Court finds and holds, that the ends of justice served by  
3 excluding time from August 23, 2012, through September 17, 2012, outweigh the best interest of  
4 the public and the defendant in a speedy trial. Id. § 3161(h)(7)(A).

5  
6 **IT IS SO ORDERED.**

7  
8 **DATED:** August 22, 2012

  
HON. PAUL S. GREWAL  
United States Magistrate Judge